

REMARKS/ARGUMENTS

Claims 1-2, 6-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4-22 of copending application No. 10/709,337.

5 Although the applicant does not agree with the Examiner's double patenting rejection, to speed prosecution of this application to become a patent, the applicant has included a terminal disclaimer for co-pending application 10/709,337 in compliance with 37 CFR 1.321(c) to overcome the above rejection based on non-statutory obviousness type double patenting.

10 Applicant further notes that filing the terminal disclaimer in no way indicates that the applicant agrees with the double patenting rejection made by the Examiner. In particular, MPEP 804.02 states:

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. Quad
15 Envi-ronmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

20

Claims 1-2, 6-24 are rejected under 35 USC 101 as not falling within one of the four statutory categories of invention. A statutory "process" must be (1) tied to another statutory category, or (2) transform underlying subject matter to a different state or thing. For example, there is no device recited within the claims to accomplish the method claimed.

25

Independent claims 1 and 24 are amended to claim "A method for filtering a video stream to reduce a blocking artifact in a post-processing de-blocking device of a video decoder." No new matter is entered. In particular, paragraph [0040] of the application as originally filed states, "FIG. 3 is a block diagram showing a video decoder incorporating a
30 post-processing de-blocking device according to the present invention."

Additionally, claims 1 and 24 are amended to tie the filtering method step to the specific de-blocking filtering unit utilized for performing the step. No new matter is entered. In particular, Figure 3 illustrates the de-blocking filtering unit 328, and paragraph [0070] states, “The de-blocking filtering unit 328 performs adaptive filtering to remove
5 blocking artifacts around each 8x8 block boundary.”

As currently amended, claims 1-2, 6-24 are now tied to another statutory category; in particular, claims 4-22 are tied to “a post-processing de-blocking device of a video decoder” and the method steps are at least performed by a de-blocking filtering unit. The applicant notes that the de-blocking filtering unit performs the method including the
10 filtering step, and therefore, claims 4-22 should be found statutory as process claims under 35 USC 101.

Withdrawal of the 35 USC 101 rejection in view of the above-described amendments to the claims is respectfully requested.

15 **Conclusion**

Thus, all pending claims are submitted to be in condition for allowance with respect to the cited art for at least the reasons presented above. The Examiner is encouraged to telephone the undersigned if there are informalities that can be resolved in a phone conversation, or if the Examiner has any ideas or suggestions for further advancing the
20 prosecution of this case.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Appl. No. 10/709,339
Amdt. dated March 04, 2009
Reply to Office action of December 24, 2008

Sincerely yours,

/Winston Hsu/

Date: 03/04/2009

Winston Hsu, Patent Agent No. 41,526

5 P.O. BOX 506, Merrifield, VA 22116, U.S.A.

Voice Mail: 302-729-1562

Facsimile: 806-498-6673

e-mail : winstonhsu@naipo.com

10 Note: Please leave a message in my voice mail if you need to talk to me. (The time in D.C. is 13 hours behind the Taiwan time, i.e. 9 AM in D.C. = 10 PM in Taiwan.)